

FIRST REGULAR SESSION

HOUSE BILL NO. 1006

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CROSS.

2241H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 534.350, 534.360, 535.030, and 535.160, RSMo, and to enact in lieu thereof three new sections relating to landlord-tenant actions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 534.350, 534.360, 535.030, and 535.160, RSMo, are repealed and
2 three new sections enacted in lieu thereof, to be known as sections 534.350, 535.030, and
3 535.160, to read as follows:

534.350. The judge rendering judgment in any such cause may issue execution at any
2 time after judgment, but such execution shall not be levied until after the expiration of the time
3 allowed for the taking of an appeal, except [as in the next succeeding section is provided] :

4 **(1) Execution for the purpose of restoring possession shall be issued no later than**
5 **ten days after the judgment; and**

6 **(2) If it shall appear to the officer having charge of the execution that the defendant**
7 **therein is about to remove, conceal, or dispose of his or her property, so as to hinder or**
8 **delay the levy, the rents and profits, damages and costs may be levied before the expiration**
9 **of the time allowed for taking an appeal.**

535.030. 1. Such summons shall be served as in other civil cases at least four days
2 before the court date in the summons. The summons shall include a court date which shall not
3 be more than twenty-one business days from the date the summons is issued unless at the time
4 of filing the affidavit the plaintiff or plaintiff's attorney consents in writing to a later date.

5 2. In addition to attempted personal service, the plaintiff may request, and thereupon the
6 clerk of the court shall make an order directing that the officer, or other person empowered to
7 execute the summons, shall also serve the same by securely affixing a copy of such summons and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended
to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8 the complaint in a conspicuous place on the dwelling of the premises in question at least ten days
9 before the court date in such summons, and by also mailing a copy of the summons and
10 complaint to the defendant at the defendant's last known address by ordinary mail at least ten
11 days before the court date. If the officer, or other person empowered to execute the summons,
12 shall return that the defendant is not found, or that the defendant has absconded or vacated his
13 or her usual place of abode in this state, and if proof be made by affidavit of the posting and of
14 the mailing of a copy of the summons and complaint, the judge shall at the request of the plaintiff
15 proceed to hear the case as if there had been personal service, and judgment shall be rendered
16 and proceedings had as in other cases, except that no money judgment shall be granted the
17 plaintiff where the defendant is in default and service is by the posting and mailing procedure
18 set forth in this section.

19 3. If the plaintiff does not request service of the original summons by posting and
20 mailing as provided in subsection 2 of this section, and if the officer, or other person empowered
21 to execute the summons, makes return that the defendant is not found, or that the defendant has
22 absconded or vacated the defendant's usual place of abode in this state, the plaintiff may request
23 the issuance of an alias summons and service of the same by posting and mailing in the time and
24 manner provided in subsection 2 of this section. In addition, the plaintiff or an agent of the
25 plaintiff who is at least eighteen years of age may serve the summons by posting and mailing a
26 copy of the summons in the time and manner provided in subsection 2 of this section. Upon
27 proof by affidavit of the posting and of the mailing of a copy of the summons or alias summons
28 and the complaint, the judge shall proceed to hear the case as if there had been personal service,
29 and judgment shall be rendered and proceedings had as in other cases, except that no money
30 judgment shall be granted the plaintiff where the defendant is in default and service is by the
31 posting and mailing procedure provided in subsection 2 of this section.

32 4. [On the date judgment is rendered as provided in this section where the defendant is
33 in default, the clerk of the court shall mail to the defendant at the defendant's last known address
34 by ordinary mail a notice informing the defendant of the judgment and the date it was entered,
35 and stating that] The defendant has ten days from the date of the judgment to file a motion to set
36 aside the judgment [in the circuit court, as the case may be,] and [that] unless the judgment is set
37 aside within ten days, the judgment **for possession** will become final and the defendant will be
38 subject to eviction from the premises without further notice. **On the date judgment is rendered**
39 **if the defendant is in default, the clerk of the court shall mail to the defendant at the**
40 **defendant's last known address by ordinary mail a notice informing the defendant of the**
41 **foregoing.**

535.160. If the defendant, on the date any money judgment is given in any action
2 pursuant to this chapter, either tenders to the landlord, or brings into the court where the suit is

3 pending, all the rent then in arrears, and all the costs, further proceedings in the action shall cease
4 and be stayed. If on any date after the date of any original trial, **but before the judgment**
5 **becomes final**, the defendant shall satisfy such money judgment and pay all costs, any execution
6 for possession of the subject premises shall cease and be stayed; except that the landlord shall
7 not thereby be precluded from making application for appeal from such money judgment. If for
8 any reason no money judgment is entered against the defendant and judgment for the plaintiff
9 is limited only to possession of the subject premises, no stay of execution shall be had, except
10 as provided by the provisions of section 535.110 or the rules of civil procedure or by agreement
11 of the parties.

2 [534.360. If it shall appear to the officer having charge of the execution
3 that the defendant therein is about to remove, conceal or dispose of his property,
4 so as to hinder or delay the levy, the rents and profits, damages and costs may be
levied before the expiration of the time allowed for taking an appeal.]

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